

### REMARKS/ARGUMENTS

Applicant thanks the Examiner for his telephone conversation regarding the pending claims and the cited art. Claims 1-3, 5-7, 9-14, 16-18, 20-23, 25-29, 31, 32 and 34 are pending. Independent claims 1, 6, 10, 12, 17, 21, 27, 31 and 34 have been amended.

Claims 1, 2, 3, 5, 6, 7, 9, 27, 28, 29, 31, and 32 have been rejected under 35 U.S.C. § 102(e) as being anticipated by the Farascioni *et al.* reference. Applicant respectfully traverses the Examiner's position that Farascioni anticipates the claimed subject matter. Farascioni describes a biopsy apparatus and method that is not passed through the working channel of an endoscope as required in the pending claims. Applicant respectfully asserts that the citation of the Farascioni *et al.* reference is not a proper basis for rejection of these claims under 35 U.S.C. § 102(e).

Claims 10, 11, 21-23, 25 and 34 have been rejected under 35 U.S.C. § 102(b) as being anticipated by Werner U.S. 5,779,724 ("Werner '724"). Werner discloses a retractable surgical knife that is also not passed through the working channel of an endoscope as required by the pending claims. Applicant respectfully asserts that Farascioni is not a proper basis for rejection of these claims under 35 U.S.C. § 102(b).

Claims 12, 13, 14, 16, 17, 18 and 20 have been rejected under 35 U.S.C. 103(a) as being unpatentable over Werner '724 in view of Farascioni *et al.* '955. Neither of these devices is capable of being passed through the working channel of an endoscope as required by the pending claims. As such, this rejection under 103(a) is not proper and should be withdrawn.

Claim 26 has been rejected under 35 U.S.C. § 103(a) as being unpatentable over Farascioni *et al.* in view of Dretler *et al.* Applicant believes the amendment to claim 26 overcomes this rejection.


Appl. No. 09/963,676  
Amdt. Dated September 17, 2003  
Reply to Office Action of June 18, 2003

Docket No. BSX-219/10026334  
(PATENT)

Applicant believes that all pending claims are now in condition for allowance. Should the Examiner have any questions or comments regarding this communication, he may contact the Applicant's representative at the number below.

Respectfully submitted,

Date: September 17, 2003

  
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